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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,880	12/23/2005	Magin Luis Quiambao Jr	733310/0000II	1409
27036 7590 01/24/2008 STEPTOE & JOHNSON CHASE TOWER, 6TH FLOOR P.O. BOX 2190 CLARKSBURG, WV 26302-2190				
EXAMINER				
WOOD, KIMBERLY T				
ART UNIT		PAPER NUMBER		
3632				
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01/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,880

Applicant(s)

QUIAMBAO JR, MAGIN LUIS

Examiner

Kimberly T. Wood

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

This is an office action for serial number 10/561,880.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6-11, and 18 rejected under 35 U.S.C. 102(b) as being anticipated by Gray 4,293,113. Gary discloses a tubular means (12) being made of PVC and a length of about 12 inches and about 13 inches (column 3, lines 22ff) , a top binder (35, 15) with strap (35), a bottom binder (60 and 17) with strap (35), a support member (25 and 22 near the bottom) being one or more protrusions, or screw hole in tube and machine screw (column 3, line 14ff) , a securing member (25 and 22 near the top), means for preventing slippage (column 3, lines 46 resilient plastic material), a support shaft (figure 3). Gray inherently disclose a method detachably securing an umbrella shaft, aligning, detachably, depositing, and adjusting.

Claims 15, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, Sr. 191,782. Smith discloses a

Gary discloses a tubular means (C) , a top binder (f) with strap (A), a bottom binder (g) with strap (A'), means for supporting the umbrella shaft inside the tubular means whereby the bottom portion does not slide out (the bottom of the tubular member C being closed prevents sliding out of umbrella), means for adjustably securing (i) being a thumb screw/machine screw threaded through a thumb screw hole in the tube slippage (See figure 2, and page 1, column 2, lower end of tubular member being angular and preventing slippage).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray 4,293,113 in view of Smith 191,782, as discussed above. Gray discloses all of the limitation of the claimed invention except for the means for adjustably securing/securing member. It would have been obvious to one

having ordinary skill in the art to have modified Gray to have included the means for adjustably securing/securing member as taught by Smith for the purpose of holding the umbrella in place.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gray 4,293,113. Gray discloses all of the limitations of the claimed invention except for the tube having about a one inch inner diameter. It would have been an obvious matter of design choice to have made the tube having about a one inch inner diameter, since such a modification would have involved a mere change in the size of a component and it is conventional in the art that tubular members for umbrella have tube having about a one inch inner diameter. A change in shape is generally recognized as being within the level of ordinary skill.

Claims 1, 2, 4, 6, 10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith 191,782 in view of Gray 4,293,113, as discloses above. Smith discloses all of the limitations of the claimed invention except for the support member/means for supporting. Gray discloses a support member/means for supporting (22 and 25). It would have been obvious to one having ordinary skill in the art to have modified Smith to have included the support member/means for supporting

as taught by Gray for the purpose of providing a length sufficient to provide suitable support for the longest of umbrella shafts, while the provision of apertures at intermediate distances allowing shorter effective lengths to be achieved by insertion of bolt through a particular aperture therefore adjusting for shorter length shafts.

Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith 1,91,782 in view of Gray 4,293,113, as discussed above. Smith in view of Gray discloses all of the limitations of the claimed invention except for hook and loop fasteners. It would have been obvious to one having ordinary skill in the art to have modified Smith in view of Gray to have substituted the buckles (b of Smith) with hook and loop fasteners since buckles are fasteners for coupling ends of straps/belts and hook and loop are conventional means of fasteners for coupling ends of straps/belts. Therefore, because these two fasteners were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute buckles for hook and loop fasteners.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith 191,782 in view of Gray 4,293,113. Smith in view of Gray discloses all of the limitations of the

claimed invention except for the tube having about a one inch inner diameter. It would have been an obvious matter of design choice to have made the tube having about a one inch inner diameter, since such a modification would have involved a mere change in the size of a component and it is conventional in the art that tubular members for umbrella have tube having about a one inch inner diameter. A change in shape is generally recognized as being within the level of ordinary skill.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly T. Wood/
Kimberly T. Wood
Primary Examiner
Art Unit 3632

January 22, 2008